

<p>Attorney or Party Name, Address, Telephone & FAX Numbers, State Bar Number & Email Address</p> <p>The Law Office of Danny K. Agai Danny K. Agai, SBN 275682 12501 Chandler Blvd, Suite 102 Valley Village, CA 91607 Tel. (310) 666-1007 Email: dannyagai@theattorneygroup.com</p> <p><input type="checkbox"/> Debtor's appearing without attorney <input checked="" type="checkbox"/> Attorney for: Debtors</p>	<p>FOR COURT USE ONLY</p>
<p style="text-align: center;">UNITED STATES BANKRUPTCY COURT CENTRAL DISTRICT OF CALIFORNIA – SANTA ANA DIVISION</p>	
<p>In re: Gilda Noemi Sanchez & Cesar Jacobo Perez</p> <p style="text-align: right;">Debtor(s).</p>	<p>CASE NUMBER: 8:17-bk-14446-CB CHAPTER 13</p>
	<p style="text-align: center;">DEBTOR'S NOTICE OF MOTION AND MOTION TO AVOID JUNIOR LIEN ON PRINCIPAL RESIDENCE [11 U.S.C. § 506(d)]</p>
	<p>DATE: 03/08/2017 TIME: 1:30 pm COURTROOM: 5D ADDRESS: 411 West Fourth Street, Santa Ana CA 92701</p>
<p>TO CREDITOR HOLDING JUNIOR LIEN (name): Deutsche Bank National Trust Company, as Certificate Trustee on Behalf of BOSCO Credit II Trust Series 2010-1</p>	

- 1. NOTICE IS HEREBY GIVEN** that on and at the above date, time and place indicated above, Debtor in the above-captioned case will move this court for an order granting the relief set forth in the motion and accompanying supporting documents served and filed herewith.
- 2. Your rights may be affected.** You should read these papers carefully and discuss them with your attorney, if you have one. *(If you do not have an attorney, you may wish to consult one.)*
- 3. Deadline for Opposition Papers:** This motion is being heard on regular notice pursuant to LBR 9013-1. If you oppose this motion, you must file a written opposition with the court and serve a copy of it upon the Debtor or Attorney for Debtor at the address set forth above no later than 14 days before the above hearing date. If you fail to file a written response to this Motion within such time period, the court may treat such failure as a waiver of your right to oppose the Motion and may grant the requested relief.

"Bankruptcy Code" and "11 U.S.C." refer to the United States Bankruptcy Code, Title 11 of the United States Code.
"FRBP" refers to the Federal Rules of Bankruptcy Procedure. "LBR" and "LBRs" refer to the Local Bankruptcy Rule(s) of this court.

This form is mandatory. It has been approved for use by the United States Bankruptcy Court for the Central District of California.

4. **Hearing Date Obtained Pursuant to Judge's Self-Calendaring Procedure:** The undersigned hereby verifies under penalty of perjury under the laws of the United States of America that the above-stated hearing date and time were available for this type of Motion according to the self-calendaring procedures of the assigned judge, (specify name of judge) Judge Catherine Bauer

Executed on (date): 12/22/2017

The Law Office of Danny K. Agai

Printed name of law firm (if applicable)

Danny K. Agai

Printed name of Debtor or Attorney for Debtor



Signature of Debtor or Attorney for Debtor

MOTION TO AVOID JUNIOR LIEN ON PRINCIPAL RESIDENCE [11 U.S.C. § 506(d)]
(DEBTOR: Gilda Noemi Sanchez & Cesar Jacobo Perez)

NAME OF CREDITOR HOLDING JUNIOR LIEN (Respondent): Deutsche Bank National Trust Company, as
Certificate Trustee on Behalf of BOSCO Credit II Trust Series 2 / Franklin Credit Management Corp

1. **Subject Property:** Debtor moves to avoid the junior deed of trust, mortgage or other encumbrance (Lien) encumbering the following real property (Property), which is the principal residence of debtor.

Street address: 110 S. Jeanine Way

Unit number: _____

City, county, state, zip code: Anaheim, CA 92806

Legal description and/or map/book/page number, including county of recording:

Lot 14 of Tract 7088, in the City of Anaheim, County of Orange, California as per map recorded in Book
288, Page(s) 40-41 of Miscellaneous Maps in the Office of the County Recorder of said County.

☒ See attached page for legal description of Property or document recording number.

2. **Subject Lien**

Date and place of recordation of lien recording instrument number and document recording number (*specify*)
Recorded 6/1/2006 in Orange County, California: Recordation No. 2006000367028

3. **Case History:**

- a. A voluntary petition under Chapter ☐ 7 ☐ 11 ☐ 12 ☒ 13 of the Bankruptcy Code, 11 U.S.C. was filed in this case on (*specify petition date*): 11/12/2017.
- b. ☐ An Order of Conversion to Chapter 13 was entered in this case on (*specify date*): _____.

4. **Grounds for Avoidance of Junior Lien:**

- a. As of (*date of title review*) 11/12/2017, the Property is subject to the following liens in the amounts specified securing the debt against the Property that Debtor seeks to have treated as indicated:

(1) (*Name of holder of 1st lien*) Ocwen Loan Servicing, LLC in the amount
of \$544,738.16.

(2) (*Name of holder of 2nd lien*) Franklin Credit Management Corp in the amount
of \$ 224,148.92 ☒ is ☐ is not to be avoided;

(3) (*Name of holder of 3rd lien*) _____ in the amount
of \$ _____ ☐ is ☐ is not to be avoided;

☐ See attached page for additional lien(s).

As of (*date of valuation/appraisal*) 11/12/2017, Property is worth no more than (*value per valuation/appraisal*) \$ 540,000.00.

- b. As shown here, the Creditor holding the judicial lien encumbering the Property is wholly unsecured.

c. Evidence in Support of Motion:

- (1) ☒ The amount of the lien identified in paragraph 3(a)(1) is based on (type of evidence)
Mortgage Statement, attached hereto and identified as Exhibit 2.
- (2) ☒ The amount of the lien identified in paragraph 3(a)(2) is based on (type of evidence)
Proof of Claim filed by Creditor, attached hereto and identified as Exhibit 3.
- (3) ☐ The amount of the lien identified in paragraph 3(a)(3) is based on (type of evidence)
_____, attached hereto and identified as Exhibit ____.
- (4) ☒ The relative priority of the liens encumbering the Property is established by evidence attached as
Exhibit 4-5.
- (5) ☒ The value of the Property from paragraph 3(b) is based on (type of evidence)
Appraisal & Declaration from Appraiser, attached as Exhibit 6.
- (6) ☒ Debtor submits the attached Declaration(s).
- (7) ☒ Other evidence (specify/identify supplemental evidence): Grant Deed
_____, attached as Exhibit 1.

WHEREFORE, Debtor requests that this court issue an order granting this motion in the form of the Attachment to this motion. (Attach a separate Attachment for each lien to be avoided.)

Date: 12/22/2017

Respectfully submitted,

Danny K. Agai

Signature of Debtor or Attorney for Debtor

Danny Agai
Printed name of Debtor or Attorney for Debtor

ATTACHMENT TO MOTION/ORDER
(11 U.S.C. § 506: VALUATION/LIEN AVOIDANCE)

This court makes the following findings of fact and conclusions of law:

1. **Creditor Lienholder/Servicer:** Franklin Credit Management Corp
2. **Subject Lien:** Date and place of recordation of lien (*specify*): Recorded 6/1/2006 in Orange County, California

Recorder's instrument number and/or document recording number: 2006000367028

3. Collateral:

- a. Real property (street address, city, county and state, where located, legal description or map/book/page number, including county of recording):
110 S. Jeanine Way, Anaheim CA 92806 (See Exhibit "1") ☒ See attached page.
- b. Other collateral: _____ ☐ See attached page.

4. Secured Claim Amount Determination

- a. Value of Collateral: \$ 540,000.00
- b. Senior Liens (reducing equity in the property to which the Subject Lien can attach):
- (1) First lien: (\$ _____)
- (2) Second lien: (\$ 224,148.92)
- (3) Third lien: (\$ _____)
- (4) Additional senior liens (*attach list*): (\$ _____)
- Subtotal: (\$ _____)
- c. Secured Claim Amount (negative results should be listed as -\$0-): \$ _____

Unless otherwise ordered, any allowed claim in excess of this Secured Claim Amount is to be treated as a nonpriority unsecured claim and is to be paid pro rata with all other nonpriority unsecured claims in Class 5A of the Plan.

5. **Lien avoidance:** Debtor's request to avoid the Subject Lien is granted as follows. The effective date of avoidance of the Subject Lien (Lien Avoidance Effective Date) will be upon:
- ☐ completion of the Chapter 13 Plan, or ☒ receipt of a Chapter 13 discharge in this case.
6. **Retention of lien until avoidance:** The Creditor Lienholder will retain the Subject Lien for the full amount due under the corresponding note and deed of trust, mortgage or lien if the Debtor's Chapter 13 case is dismissed or converted to any other chapter under the Bankruptcy Code, or if the Collateral is sold or refinanced, prior to the Lien Avoidance Effective Date.
7. **Retention of rights upon foreclosure of other lien:** In the event that the holder of any other lien on the Collateral forecloses on its interest and extinguishes the Creditor Lienholder/Servicer's lien rights prior to the Lien Avoidance Effective Date, the Creditor Lienholder's lien shall attach to any proceeds greater than necessary to pay the senior lien(s) from the foreclosure sale.

☐ See attached page(s) for more liens/provisions.

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:
12501 Chandler Blvd, Suite 102, Valley Village CA 91607

A true and correct copy of the foregoing document entitled: **DEBTOR'S NOTICE OF MOTION AND MOTION TO AVOID JUNIOR LIEN ON PRINCIPAL RESIDENCE [11 U.S.C. § 506(d)] AND** _____

will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On (date) 1/31/18, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

Amrane (SA) Cohen (TR): efile@ch13ac.com Nichole Glowin: nglowin@wrightlegal.net
Michelle R Ghidotti: mghidotti@ghidottilaw.com Kristin A Zilberstein: kzilberstein@ghidottilaw.com
Sean C Ferry: sferry@ecf.courtdrive.com - United States Trustee (SA): ustregion16.sa.ecf@usdo

☐ Service information continued on attached page

2. SERVED BY UNITED STATES MAIL:

On (date) 1/31/18, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

Honorable Judge, Catherine Bauer
411 W. Fourth Street, Suite 5165
Santa Ana, CA 92701

☒ Service information continued on attached page

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (date) _____, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

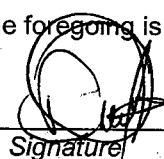
☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

1/31/18
Date

Dennis Peters

Printed Name


Signature

SERVED BY UNITED STATES MAIL, CERTIFIED MAIL OR OVERNIGHT MAIL (indicate method for each person or entity served):

(Attached page to Proof of Service of Document-please include any additional or alternative addresses and attach additional pages if needed)
(Certified Mail required for service on a national bank.)

1st lienholder (name and address) Ocwen Loan Servicing, LLC Attn: Officer/CEO 1661 Worthington Road Suite 100 West Palm Beach, FL 33409	Address from: <input type="checkbox"/> Proof of claim <input checked="" type="checkbox"/> Secretary of State <input type="checkbox"/> FDIC website <input type="checkbox"/> Other (specify): Address for Creditor as reported in California Secretary of State website	Delivery Method <input type="checkbox"/> United States mail <input checked="" type="checkbox"/> Certified mail – Tracking # <u>70153010000117493718</u> <input type="checkbox"/> Overnight mail – Tracking # _____ Carrier Name: _____
1st lienholder (name) and Agent for Service of Process (name and address) CSC Lawyers Incorporating Servicing, Inc. c/o Ocwen Loan Servicing, LLC 2710 Gateway Oaks Drive Suite 150N Sacramento, CA 95833	Address from: <input type="checkbox"/> Proof of claim <input checked="" type="checkbox"/> Secretary of State <input type="checkbox"/> FDIC website <input type="checkbox"/> Other (specify):	Delivery Method <input type="checkbox"/> United States mail <input checked="" type="checkbox"/> Certified mail – Tracking # <u>70153010000117493725</u> <input type="checkbox"/> Overnight mail – Tracking # _____ Carrier Name: _____
1st lienholder (name) and Servicing Agent (name and address) Ocwen Loan Servicing, LLC Attn: Bankruptcy Dept PO Box 24605 West Palm Beach, FL 24605	Address from: <input checked="" type="checkbox"/> Proof of claim <input type="checkbox"/> Secretary of State <input type="checkbox"/> FDIC website <input type="checkbox"/> Other (specify): Proof of Claim from previous bankruptcy	Delivery Method <input type="checkbox"/> United States mail <input checked="" type="checkbox"/> Certified mail – Tracking # <u>70153010000117493732</u> <input type="checkbox"/> Overnight mail – Tracking # _____ Carrier Name: _____

2nd lienholder (name and address) Franklin Credit Management Corp c/o Attn: Officer/CEO 101 Hudson Street 25th Floor Jersey City, NJ 07302	Address from: <input type="checkbox"/> Proof of claim <input checked="" type="checkbox"/> Secretary of State <input type="checkbox"/> FDIC website <input type="checkbox"/> Other (specify): Address for Creditor as reported in California Secretary of State website	Delivery Method <input type="checkbox"/> United States mail <input checked="" type="checkbox"/> Certified mail – Tracking # <u>70153010000117493749</u> <input type="checkbox"/> Overnight mail – Tracking # _____ Carrier Name: _____
2nd lienholder (name) and Agent for Service of Process (name and address) CSC Lawyers Incorporating Servicing, Inc. c/o Franklin Credit Management Corp 2710 Gateway Oaks Drive Suite 150N Sacramento, CA 95833	Address from: <input type="checkbox"/> Proof of claim <input checked="" type="checkbox"/> Secretary of State <input type="checkbox"/> FDIC website <input type="checkbox"/> Other (specify):	Delivery Method <input type="checkbox"/> United States mail <input checked="" type="checkbox"/> Certified mail – Tracking # <u>70153010000117493756</u> <input type="checkbox"/> Overnight mail – Tracking # _____ Carrier Name: _____
2nd lienholder (name) and Servicing Agent (name and address) Franklin Credit Management Corp PO Box 2301 Jersey City, NJ 07303	Address from: <input checked="" type="checkbox"/> Proof of claim <input type="checkbox"/> Secretary of State <input type="checkbox"/> FDIC website <input type="checkbox"/> Other (specify):	Delivery Method <input type="checkbox"/> United States mail <input checked="" type="checkbox"/> Certified mail – Tracking # <u>70153010000117493763</u> <input type="checkbox"/> Overnight mail – Tracking # _____ Carrier Name: _____

3rd lienholder (name and address)	Address from: <input type="checkbox"/> Proof of claim <input type="checkbox"/> FDIC website	Delivery Method <input type="checkbox"/> United States mail <input type="checkbox"/> Certified mail – Tracking # _____ <input type="checkbox"/> Overnight mail – Tracking # _____ Carrier Name: _____
3rd lienholder (name) and Agent for Service of Process (name and address)	Address from: <input type="checkbox"/> Proof of claim <input type="checkbox"/> FDIC website	Delivery Method <input type="checkbox"/> United States mail <input type="checkbox"/> Certified mail – Tracking # _____ <input type="checkbox"/> Overnight mail – Tracking # _____ Carrier Name: _____
3rd lienholder (name) and Servicing Agent (name and address)	Address from: <input type="checkbox"/> Proof of claim <input type="checkbox"/> FDIC website	Delivery Method <input type="checkbox"/> United States mail <input type="checkbox"/> Certified mail – Tracking # _____ <input type="checkbox"/> Overnight mail – Tracking # _____ Carrier Name: _____

Alternative/additional address (name and address) Gilda N. Sanchez Cesar Jacobo Perez 110 S. Jeanine Way Anaheim, CA 92806	Address from: <input type="checkbox"/> Proof of claim <input type="checkbox"/> Secretary of State <input type="checkbox"/> FDIC website <input checked="" type="checkbox"/> Other (specify): Debtors	Delivery Method <input checked="" type="checkbox"/> United States mail <input type="checkbox"/> Certified mail – Tracking # _____ <input type="checkbox"/> Overnight mail – Tracking # _____ Carrier Name: _____
Alternative/additional address (name and address)	Address from: <input type="checkbox"/> Proof of claim <input type="checkbox"/> Secretary of State <input type="checkbox"/> FDIC website <input type="checkbox"/> Other (specify):	Delivery Method <input type="checkbox"/> United States mail <input type="checkbox"/> Certified mail – Tracking # _____ <input type="checkbox"/> Overnight mail – Tracking # _____ Carrier Name: _____

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Phone: (310) 666-1007
Email: dannyagai@gmail.com

Attorney for Debtor(s)
GILDA NOEMI SANCHEZ & CESAR JACOBO PEREZ

UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA

In re,)	Case No. 8:17-bk-14446-CB
GILDA NOEMI SANCHEZ & CESAR)	Chapter 13
JACOBO PEREZ,)	
Debtor(s))	DECLARATION OF GILDA NOEMI
)	SANCHEZ & CESAR JACOBO PEREZ
)	IN SUPPORT OF MOTION TO AVOID
)	JUNIOR LIEN ON PRINCIPAL
)	RESIDENCE

We, Gilda Noemi Sanchez & Cesar Jacobo Perez, hereby declare under penalty of perjury under the laws of the State of California, that the foregoing is true and correct.

1. We are the Debtors in this action and if called upon to testify to the fact set forth below, we could and would testify to best of our abilities.
2. We are the owners of the real property located at 110 S. Jeanine Way, Anaheim CA 92806.
3. We acquired the property on or about June 1, 2006.
4. We acquired a senior deed of trust lien on the above-mentioned property which was recorded on June 1, 2006 in the amount of \$536,000.00 with Mortgageit and transferred to Deutsche Bank National Trust Company, as Trustee of the Indymac Indx Mortgage Trust 2006-AR25, Mortgage Pass-Through Certificates, Series 2006-AR25 and serviced by Ocwen Loan Servicing, LLC.
5. A second junior deed of trust lien has been recorded against the above-mentioned property on 06/01/2006 in the amount of \$134,000.00 with Mortgageit and transferred to Deutsche

Bank National Trust Company, as Certificate Trustee on Behalf of Bosco Credit II Trust Series 2010-1 and serviced by Franklin Credit Management Corporation.

6. According to my records Select Portfolio Servicing, Inc. currently holds a lien balance of \$544,738.16 on the senior deed of trust lien.
7. According to my records Franklin Credit Management Corporation currently holds the second junior deed of trust lien balance of \$224,148.92 against the above-mentioned property.
8. We have researched similar properties for sale in our neighborhood and have determined that the fair market value of the subject property is \$540,000.00. *See- Declaration of Real Estate Appraiser and appraisal attached in the Motion to Avoid Lien*

Executed on 1/22/18, at Los Angeles California


Gilma Noemi Sanchez


Cesar Jacobo Perez